

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JESSICA A. TORRES-GRAHAM

Plaintiff,

v.

**WIRELESS VISION HOLDINGS,
LLC,**

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 3:22-cv-132

DEFENDANT’S NOTICE OF REMOVAL

Defendant Wireless Vision, LCC (“Defendant”), incorrectly named here as Wireless Vision Holdings, LLC, files this Notice of Removal to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, and in support of this Notice, respectfully show the following:

STATEMENT OF CASE

1. On March 1, 2022, Plaintiff Jessica A. Torres-Graham filed her First Amended Petition (“Petition”) against Defendant in the 210th District Court of El Paso County, Texas.
2. The Petition alleges claims under the Family and Medical Leave Act. For the reasons that follow, Defendant removes the case to this Court.

PLAINTIFF’S CLAIMS PRESENT A FEDERAL QUESTION

3. This Court has jurisdiction over this matter by virtue of 28 U.S.C. § 1331 because the matter involves a claim arising under the laws of the United States. Plaintiff seeks relief under the Family and Medical Leave Act pursuant to 29 U.S.C. § 2615, specifically alleging interference with her right to take leave, discrimination, and retaliation. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 because Plaintiff’s claims arise under federal law.

DIVERSITY OF CITIZENSHIP EXISTS

4. This Court also has original jurisdiction of this matter under 28 U.S.C. § 1332 because the parties are citizens of different States and the amount in controversy exceeds \$75,000.

5. Plaintiff is a resident of El Paso County, Texas.

6. Defendant is a Limited Liability Company and its members are citizens of Michigan, Indiana, Florida, Delaware, and Pennsylvania.

7. The citizenship of an LLC is determined by the citizenship of all of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). Defendant is therefore not a citizen of the State of Texas.

8. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff's Petition states that she seeks damages over \$200,000.

9. Nothing contained in this Notice of Removal shall be construed to mean that any amount is or will be owing to Plaintiff, or that it is appropriate or justified for Plaintiff to seek any particular type or amount of damages.

VENUE

10. Venue for this action is proper in the District Court for the Western District of Texas, El Paso Division because this is the district and division in which the state court action is pending. 28 U.S.C. § 1446(a).

REMOVAL IS TIMELY

11. Defendant was served with Plaintiff's Petition on March 24, 2022. Pursuant to 28 U.S.C. § 1446(b), a defendant must file a notice of removal within thirty days after service of the amended pleading, motion, order, or other paper from which the defendant can ascertain that the case has become removable. Accordingly, this notice of removal is timely filed.

ATTACHEMENT OF STATE COURT PLEADINGS

12. Defendant has attached to this Notice as **Exhibit A**, a complete copy of the state court file, including the docket sheet.

NOTICE OF REMOVAL GIVEN TO STATE COURT

13. A Notice of Removal to Federal Court is being filed in the 210th District Court of El Paso County, Texas on the date of this filing with the U.S. District Court for the Western District of Texas. A copy of the notice provided to the state court is attached to this Notice as **Exhibit B**.

JURY DEMAND

14. Plaintiff has demanded a trial by jury in the underlying state court action.

CONCLUSION

15. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because Plaintiff's claims present a federal question. The court also has original jurisdiction under 28 U.S.C. § 1332 because the parties are citizens of different States and the amount in controversy exceeds \$75,000. This action may be removed to this Court pursuant to 28 U.S.C. § 1441.

Pursuant to and in accordance with 28 U.S.C. § 1446, Defendant removes this action from the 210th District Court of El Paso County, Texas, to this Court on this the 18th day of April, 2022 and prays that Defendant has such other and further relief, both general and specific, at law and equity, to which it may be justly entitled.

Respectfully submitted,

**OGLETREE, DEAKINS,
NASH, SMOAK & STEWART, P.C.**

/s/ Bruce A. Griggs

Bruce A. Griggs

Texas Bar No. 08487700

bruce.griggs@ogletree.com

Brian A. Aslin

Texas Bar No. 24106850

brian.aslin@ogletree.com

301 Congress Ave., Suite 1150

Austin, TX 78701

(512) 344-4700 – Telephone

(512) 344-4701 – Fax

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that I have on this 18th day of April, 2022, served via e-filing through the Texas E-Filing System, a true and correct copy of the foregoing document, *Defendant's Notice of Removal*, to all counsel as follows:

Enrique Chavez, Jr.
enriquechavezjr@chavezlawpc.com
CHAVEZ LAW FIRM
2101 Stanton Street
El Paso, Texas 79902

/s/ Bruce A. Griggs

Bruce A. Griggs